

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 01-20-13
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Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Office Of Policy, Planning and Assessment
Division:	Health Statistics
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Revision Type (check all that apply):

- ☐ Amendment
☒ New
☒ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-07-04	Ambulatory Surgical Treatment Center Data System
Rule Number	Rule Title
1200-07-04-.01	Definitions
1200-07-04-.02	Purpose
1200-07-04-.03	Reporting Requirements
1200-07-04-.04	Required Data Elements
1200-07-04-.05	Submission Schedule
1200-07-04-.06	Penalty Assessment
1200-07-04-.07	Vendor Requirements
1200-07-04-.08	Processing and Verification
1200-07-04-.09	Data Availability
1200-07-04-.10	Confidential Information

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rules of
Tennessee Department of Health
Bureau of Health Informatics
Office of Health Statistics

Chapter 1200-07-04 Ambulatory Surgical Treatment Center Data System is repealed.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

New

Rules of
Tennessee Department of Health
Office of Policy, Planning and Assessment
Division of Health Statistics

Chapter 1200-07-04
Ambulatory Surgical Treatment Center Data System and
Outpatient Diagnostic Center Data System

1200-07-04-.01 Definitions
1200-07-04-.02 Purpose
1200-07-04-.03 Reporting Requirements
1200-07-04-.04 Required Data Elements
1200-07-04-.05 Submission Schedule
1200-07-04-.06 Vendor Requirements
1200-07-04-.07 Processing and Verification
1200-07-04-.08 Penalty Assessment
1200-07-04-.09 Data Availability
1200-07-04-.10 Confidential Information

1200-07-04-.01 Definitions

- (1) "Ambulatory Surgical Treatment Center" shall have the same definition as contained in T.C.A. § 68-11-201.
- (2) "ASTC" is the acronym for ambulatory surgical treatment center.
- (3) "Claim" shall mean a charge or bill for services rendered, billed to the patient, to another private individual, or to a third party payer, public or private.
- (4) "Claims Data" shall mean all data elements collected for all patients for whom an ASTC or ODC provides services that are entered on any claim form prepared by the ASTC or ODC and shall always include those required data elements identified in the subparagraphs listed in rule 1200-07-04-.04, paragraphs (1) and (2).
- (5) "CMS-1500" shall mean the claim form "Centers for Medicare & Medicaid Services 1500" or its successor form.
- (6) "Commissioner" shall mean the commissioner of the Tennessee Department of Health.
- (7) "Data Element" shall mean any individual piece of information collected from a patient by an

ASTC or ODC during the process of providing services to that patient for which the ASTC or ODC will file a claim.

- (8) "Department" shall mean the Tennessee Department of Health.
- (9) "Error" shall mean data that are incomplete or inconsistent with the specifications in the ASTC Data System Procedural Manual, the ODC Data System Procedural Manual, or these rules.
- (10) "Final Joint Annual Report" shall mean the most recent Joint Annual Report filed by an ASTC or ODC where the data contained in the report have been edited, queried, and updated when appropriate, by the Department.
- (11) "JAR" is the acronym for Joint Annual Report.
- (12) "ODC" is the acronym for outpatient diagnostic center.
- (13) "Outpatient Diagnostic Center" shall have the same definition as contained in T.C.A. §68-11-201.
- (14) "Personal Identifiers" shall be defined to include all the identifiers contained in 45 C.F.R. § 164.514 (b) or (e).
- (15) "Processed Data" shall mean data that have been analyzed by the Department or the Department's designated data vendor(s) and errors, inconsistencies, and/or incomplete elements in the data set, if any, have been identified.
- (16) "Public" shall mean anyone other than the Tennessee Department of Health, its vendors, and its contracted agencies.
- (17) "Record Level Data" shall mean a set of data that is specific to individual patient claims.
- (18) "State" shall mean the government of the State of Tennessee including all its agencies.
- (19) "UB-04" shall mean the CMS Form 1450, [a.k.a. "the Uniform Hospital Billing Form"], or its successor forms as established by the National Uniform Billing Committee and the State Uniform Billing Implementation Committee.
- (20) "Vendor" shall mean a third party entity, approved by the Department, through whom an ASTC or ODC submits its claims data for the purpose of compilation and editing according to these rules and the instructions of the Department.
- (21) "Verified Data" shall mean data that have been processed by the Department after the ASTCs or ODCs have had the opportunity to suggest corrections and/or deletions, and all appropriate revisions have been made to the data and approved by the Department.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.02 Purpose

- (1) The reporting of ambulatory surgical and outpatient diagnostic data will provide two statewide databases and permit assessment of variations in utilization, practice parameters, access to care, and charges.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.03 Reporting Requirements

- (1) Each ASTC and ODC shall contract with one of the approved vendors and shall report through its vendor all its claims data. Claims data for all free or charity services provided by any ASTC or ODC that otherwise submits claims for reimbursement shall also be reported to the vendor.

- (2) No claim reporting is required for any of the following:
 - (a) From a licensed ASTC or ODC that provides only free care and never bills for any services.
 - (b) Regarding any procedures already reported by an ASTC or ODC to the Department under T.C.A. § 68-3-505 or services ancillary thereto such as counseling, testing, or follow-up.
- (3) The Department will prepare the ASTC and ODC Data System-Procedural Manuals that will list the variables to be reported, their descriptions and reporting format, and other information associated with data submission. The Department shall issue revisions to the Procedural Manuals when the Commissioner deems it necessary. The Department will notify each ASTC, ODC, and vendor of all revisions. These revisions become effective one hundred and eighty (180) days following the date of notification. At that time, failure to meet the amended requirements is subject to the penalties as prescribed by T.C.A. §68-1-119.
- (4) Each ASTC or ODC shall report all data elements using the actual values used for billing by the ASTC or the ODC. No data elements shall be encrypted or otherwise altered. This rule shall not be interpreted to prevent encryption of entire files for security in transmission to parties having the appropriate decryption software.
- (5) Each ASTC and ODC shall be responsible for submitting its data to the approved vendor in a format and medium approved by the State.
- (6) Each ASTC and ODC shall be responsible for the costs associated with the processing of the data by the approved vendors.
- (7) Each ASTC and ODC shall report in a format using the data elements which correspond with the claim form used by the ASTC or ODC for billing. If an ASTC or ODC submits claims using both the CMS-1500 and UB-04 forms, the claims data shall be submitted in separate data sets for each form.
- (8) Each ASTC and ODC shall report the claims data at least quarterly, pursuant to rule 1200-07-04-.05, to its approved vendor with a separate data set for each facility location.
- (9) Each ASTC and ODC shall designate one staff member to be responsible for reporting the claims data and shall notify the Department and its approved vendor of the name, title, work address, work telephone number, and e-mail address of the designated staff member.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.04 Required Data Elements

- (1) CMS-1500 Claims Forms
 - (a) Each ASTC and ODC must report to the Department all the following data elements for each and every claim based on the CMS-1500 form:
 - 1. Patient's Birth Date
 - 2. Patient's Sex
 - 3. Patient's Address (State)
 - 4. Patient's Address (Zip Code)
 - 5. Dates of Service (Through Date)

6. Diagnosis or Nature of Illness or Injury
 7. Total Charge
 8. Patient's Social Security Number
 9. Patient's Race/Ethnicity
- (b) Each ASTC and ODC must report to the Department all CMS-1500 data elements listed in the relevant ASTC or ODC Procedural Manual whenever the data element is collected by the ASTC or ODC and/or used for billing.
- (2) UB-04 Claims Forms
- (a) Each ASTC and ODC must report to the Department all the following data elements for each and every claim based on the UB-04 form:
1. Statement Covers Period
 2. Patient's Address (State)
 3. Patient's Address (Zip Code)
 4. Patient's Date of Birth
 5. Patient's Sex
 6. Revenue Codes
 7. Total Charges (By Revenue Code Category)
 8. Principal Diagnosis Code
 9. Patient's Social Security Number
 10. Patient's Race/Ethnicity
- (b) Each ASTC and ODC must report to the Department all UB-04 data elements listed in the relevant ASTC or ODC Procedural Manual whenever the data element is collected by the ASTC or ODC and/or used for billing.
- (3) Each ASTC and ODC shall report to the Department all data elements that it collected from patients and which it reported by making an entry in any or all of the data element spaces contained on any form other than the CMS-1500 or UB-04 on which it submits a claim. However, the data elements identified in paragraphs (1)(a) and (2)(a) above that must be collected, entered and reported to the Department by the ASTC or ODC for the identified claim form shall also be reported to the Department when any other claim form is used.
- (4) Data elements collected by the ASTC or ODC that are not specifically identified in either paragraphs (1) through (3) of this rule or in the procedural manual shall not be reported to the vendor or the Department.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.05 Submission Schedule

- (1) Each ASTC or ODC shall submit all required claims to its approved vendor according to the following quarterly schedule:

Quarter	Time Span	Submission Due Date
Q1	January 1 – March 31	May 30
Q2	April 1 – June 30	August 29
Q3	July 1 – September 30	November 29
Q4	October 1 – December 31	March 1

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.06 Vendor Requirements

- (1) An applicant desiring to be approved as a statewide data processing vendor shall make written application to the Department. To be selected as a statewide vendor by the Department the applicant must demonstrate the ability to do all of the following:
 - (a) Process the claims data as specified by the Department using the codes and the standards for completeness and quality specified by the Department.
 - (b) Include in each claims data record the ID number approved by the Department for the reporting ASTC or ODC and all vendor-generated fields specified by the Department.
 - (c) Examine the claims data it receives for accuracy, inform the ASTC or ODC submitting the data of all potential errors in the data which are discovered as a result of the examination of accuracy, and correct the data as directed by the ASTC, the ODC, and/or the Department.
 - (d) Submit the claims data to the Department in an electronic or magnetic medium or process approved by the Department.
 - (e) Report to the Department each ASTC or ODC that has either failed to submit claims data or is tardy in doing so.
 - (f) Affirm that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable and current HIPAA requirements in the course of doing business with the State. The applicant shall affirm that it will cooperate with the State in the course of its performance so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. The applicant will sign any documents that are reasonably necessary to keep both parties in compliance with HIPAA, including, but not limited to, business associate agreements.
- (2) If any approved vendor fails to carry out its requirements as specified in the rules of the Tennessee Department of Health, the Department may remove its approval as a statewide data processing vendor.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.07 Processing and Verification

- (1) Each vendor must review all claims data submitted for completeness and accuracy. If errors, inconsistencies or incomplete elements are identified by the vendor, the vendor must report the errors to the ASTC or ODC in writing.
- (2) Upon receiving written notification of errors, the ASTC or ODC shall investigate the problem and shall supply correct information to the vendor within fifteen (15) days from notification.

- (3) Each approved vendor must report quarterly to the Department the reporting status of all ASTCs or ODCs utilizing its services. The status of facilities that failed to report, that were delinquent in reporting, or that exceeded the acceptable error rate shall be provided to the Department quarterly and then updated at the initiative of the vendor or upon request of the Department. Each vendor shall maintain and report to the Department any information the Department deems necessary for penalty assessment.
- (4) Each approved vendor must report all data received each quarter, including additions and corrections, to the Department no more than sixty (60) days following the submission due date specified in rule 1200-07-04-.05.
- (5) Each ASTC and ODC shall be given a ten (10) day period to review the quarterly data set relating to their facility after the quarterly data have been computerized, edited, updated, and determined to be the final corrected set by the Department. Upon the expiration of the ten (10) day period, absent receipt of corrections and/or revisions from an ASTC or ODC, the quarterly data is considered verified. If corrections and/or revisions are received by the Department within the ten day period, the quarterly data is considered verified only after the Department has made any corrections and/or revisions it considers appropriate.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.08 Penalty Assessment

- (1) The Department will assess the civil penalties authorized by T.C.A. § 68-1-119(b) each day claims data are reported later than the submission due date identified in rule 1200-07-04-.05 or not reported at all up to the statutory maximum for each claim record.
- (2) Any ASTC or ODC not submitting any claims data by the submission deadline will have the number of quarterly unreported claims records calculated, for purposes of civil penalty assessment, by dividing by four (4), the number of total discharges or admissions reported on Schedule D (Availability and Utilization of Services) of the most current final JAR of the ASTC or ODC on file with the Department for that facility.
- (3) An ASTC or ODC not submitting any claims data by the submission deadline will begin accruing penalties the day immediately following the submission deadline and ending the day when the actual claims data are received by the vendor or the maximum penalty is reached.
- (4) The Department will report the rate of error it identifies to the ASTC or ODC in writing. The acceptable error rate will be two percent (2%). Records that fall within the acceptable error rate will not be subject to penalties. ASTCs or ODCs that exceed the acceptable error rate will be penalized based on total errors.
- (5) An ASTC or ODC that does not timely submit corrected claims records will accrue delinquent penalties starting the sixteenth (16th) day after error notification and ending the day when the actual corrected claims data are received by the Department or the maximum penalty is reached.
- (6) Upon receipt of the notice of civil penalty assessment the ASTC or ODC has the right to an informal conference with the Commissioner or a formal hearing to contest the assessment.
 - (a) Informal conferences are governed by T.C.A. § 68-1-119(b) and (c).
 - (b) A request for a formal hearing must be made in writing and received by the Department within thirty (30) days of the receipt of the notice of assessment or, if an informal conference pursuant to subparagraph (a) was requested, within thirty (30) days of the receipt of the written disposition of the informal conference. Proceedings involving formal contests of civil penalties are subject to the contested case provisions of the Uniform Administrative Procedures Act.
 - (c) Civil penalties for any ASTC or ODC that continues to violate the law during the pendency of the informal conference will continue to accrue until either the violation ends

or the maximum civil penalty is reached.

- (d) Waiver of penalties is governed by T.C.A. § 68-1-119(c). However, the ASTC or ODC must make a request for the waiver in its request for an informal conference pursuant to subparagraph (a) or in its request for a formal hearing pursuant to subparagraph (b).
- (7) Unless a request for a formal hearing pursuant to subparagraph (6)(b) is timely received, the civil penalties become final and collectable either on the date that the time for requesting an informal conference has expired without a request being filed, or on the date on which the written final disposition of the informal conference is received.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.09 Data Availability

- (1) If the Commissioner determines that the quality or completeness of the information is not acceptable, he or she has the authority to delay release of any particular data element(s).
- (2) The Department may create reports for public release using any available processed and verified data. It may also provide custom reports, as requested by the public, using any available processed and verified data. Facility specific data reports will not be released to the public based on less than four (4) consecutive quarters of data.
- (3) The State, its agents and the vendors may receive reports of any record necessary, together with any needed patient identifiers, to carry out their contractual duties. This includes any organization contracted with to provide editing, quality control, database management services, or research for the State, or to provide keying of paper claims forms for the vendors. Any such contractual agent must agree in writing to establish and maintain appropriate controls to protect the confidentiality of the data and must agree to return or destroy any data or records at the termination of the contract.
- (4) The Department will make record level data files available for public release and purchase under the following conditions. The fee for a quarter of data for each data system will be two hundred fifty dollars (\$250.00). The fee for a subset of a quarter of data for each data system will be two hundred fifty dollars (\$250.00). The Department maintains a proprietary interest in all record level data it sells or distributes and such data are made available solely for use by the purchaser and may not be given or sold to another entity.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.10 Confidential Information

- (1) All information reported to the Commissioner under this part is confidential until processed and verified by the Department.
- (2) The Commissioner may use or authorize use of this data, including the personal identifiers, for purposes that are necessary to provide for or protect the health of the population and as permitted by law. In no event may personal identifiers be released to the public.
- (3) Information regarding the name of an employer will not be released to the public. Information about any employer may be released to the employer identified in the data record. A facility may receive information regarding the name of an employer for its claims only.
- (4) The data may be released pursuant to the provisions of 45 C.F. R. § 164.514 (b) or (e). However, any data released to the public, in addition to those items required by law to be deleted, will also not contain any of the following:
 - (a) Any patient's address city;
 - (b) An insured's address city;

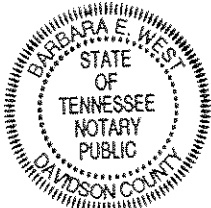
- (c) The month and day of all dates;
 - (d) Any numbers after the first three numbers of all zip codes for areas having a population under 20,000;
 - (e) Any numbers after the first five numbers of all zip codes for areas having a population 20,000 or more;
 - (f) The year of birth and the actual age of any person over eighty nine (89) years of age; and
 - (g) Information that reasonably could be expected to reveal the identity of a patient, including those items contained in 45 C.F.R. § 164.514 (a) and (b)(2)(i).
- (5) Any agency of the State of Tennessee seeking confidential ASTC or ODC claims data or reports containing such confidential information, must agree in writing to follow all confidentiality restrictions of the Department concerning use of this data. The agency must also agree in writing to release no record level information to any other entity, and shall forward all such requests for record level information to the Department.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (If required)
N/A					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner of Health on 04/04/2012 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-6-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.



MY COMMISSION EXPIRES:
May 5, 2015

Date: 4/4/2012

Signature: Mary Kennedy

Name of Officer: Mary Kennedy

Title of Officer: Deputy General Counsel

Subscribed and sworn to before me on: 04/04/2012

Notary Public Signature: Barbara E. West

My commission expires on: 05/05/2015

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

1-22-13

Date

Department of State Use Only

Filed with the Department of State on: 1/29/13

Effective on: 6/30/13

Tre Hargett

Tre Hargett
Secretary of State

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SECRETARY OF STATE

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This proposed rule does not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will have no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Amends the rule for the reporting of claims data by ambulatory surgical treatment centers (ASTCs) to include reporting by outpatient diagnostic centers (ODCs) in accordance with T.C.A. § 68-1-119

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 68-1-119

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Outpatient diagnostic centers are most directly affected by this rule, as are potential vendors. The Tennessee Hospital Association and Potential vendors urge the adoption of this rule. No comment has been heard from the Outpatient Diagnostic Centers themselves.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Teresa Hendricks, Health Statistics, 425 5th Avenue North, 6th Floor, Nashville TN 37243

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Teresa Hendricks, Health Statistics, 425 5th Avenue North, 6th Floor, Nashville TN 37243

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Teresa Hendricks, Health Statistics, 425 5th Avenue North, 6th Floor, Nashville TN 37243 615-253-3535
Teresa.Hendricks@tn.gov; Mary Kennedy, Deputy General Counsel, 425 5th Avenue North, 3rd Floor, Nashville TN 37243 615-253-4878 Mary.Kennedy@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

**RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BUREAU OF HEALTH INFORMATICS
OFFICE OF HEALTH STATISTICS**

**CHAPTER 1200-7-4
AMBULATORY SURGICAL TREATMENT CENTER DATA SYSTEM**

TABLE OF CONTENTS

1200-7-4-.01 Definitions	1200-7-4-.06 Penalty Assessment
1200-7-4-.02 Purpose	1200-7-4-.07 Vendor Requirements
1200-7-4-.03 Reporting Requirements	1200-7-4-.08 Processing and Verification
1200-7-4-.04 Required Data Elements	1200-7-4-.09 Data Availability
1200-7-4-.05 Submission Schedule	1200-7-4-.10 Confidential Information

~~1200-7-4-.01~~ **DEFINITIONS.**

- ~~(1) "Ambulatory Surgical Treatment Center" shall be defined as in T.C.A. §68-11-201.~~
- ~~(2) "CMS-1500" is defined to be form Centers for Medicare & Medicaid Services 1500. In July 2001, the Health Care Financing Administration (HCFA) became the Centers for Medicare & Medicaid Services (CMS). Prior to this name change, the CMS-1500 form had been known as the HCFA-1500 form.~~
- ~~(3) "Commissioner" shall mean the commissioner of the Tennessee Department of Health.~~
- ~~(4) "Department" shall mean the Tennessee Department of Health.~~
- ~~(5) "Error" is defined as data that are incomplete or inconsistent with the specifications in the Ambulatory Surgical Treatment Center Data System Procedural Manual.~~
- ~~(6) "Final Joint Annual Report" is defined as the most recent Joint Annual Report filed by an Ambulatory Surgical Treatment Center where the data contained in the report have been edited, queried, and updated when appropriate, by the Department of Health.~~
- ~~(7) "Outpatient" shall be defined as a person receiving reception and care in an Ambulatory Surgical Treatment Center (ASTC) for a continuous period less than twenty-four (24) hours for the purpose of giving advice, diagnosis, nursing service, or treatment bearing on the physical health of the person, excluding persons receiving maternity care involving labor and delivery.~~
- ~~(8) "Personal Identifiers" shall be defined to include the following data elements:~~
 - ~~Insured's ID Number~~
 - ~~Patient's Name~~
 - ~~Insured's Name~~
 - ~~Patient's Address: No., Street~~
 - ~~Patient's Zip Code (digits 6-9)~~
 - ~~Patient's Telephone Number~~
 - ~~Insured's Address: No., Street~~
 - ~~Insured's Zip Code (digits 6-9)~~
 - ~~Insured's Telephone Number~~
 - ~~Other Insured's Name~~
 - ~~Other Insured's Policy or Group Number~~
 - ~~Insured's Policy Group or FECA Number~~
 - ~~Patient's Account No.~~
 - ~~Patient's Social Security Number~~

(Rule 1200-7-4-.01, continued)

- (9) ~~"Processed Data" is defined as data that have been analyzed by the Department's designated data vendor(s) and errors, inconsistencies, and/or incomplete elements in the data set, if any, have been identified.~~
- (10) ~~"Public" shall be defined as anyone other than the THA and the Department of Health.~~
- (11) ~~"THA" shall be defined as the administrative offices and staff of the Tennessee Hospital Association.~~
- (12) ~~"Verified Data" is defined as data that have been processed by the Department of Health after the health facilities have had the opportunity to suggest corrections, and/or deletions; and all appropriate revisions have been made to the data by the Department of Health.~~

~~Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.~~

~~1200-7-4-.02 PURPOSE.~~

~~The reporting of ambulatory patient data will provide a statewide integrated database of ambulatory surgical procedures and certain radiological procedures and permit assessment of variations in utilization, practice parameters, access to ambulatory care and estimates of cost trends for ambulatory procedures.~~

~~Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.~~

~~1200-7-4-.03 REPORTING REQUIREMENTS.~~

- (1) ~~Each licensed Ambulatory Surgical Treatment Center (ASTC) shall report to the Tennessee Department of Health all claims data found on the appropriate form on every patient visit. Claims for discharges reported by ASTCs to the Department under Section 68-3-505 shall not be required.~~
- (2) ~~Each ASTC shall submit the data through third party entities, hereafter referred to as "vendors", approved by the Department of Health for the purpose of editing the data according to rules and regulations established by the Commissioner.~~
- (3) ~~The format for reporting the required data elements, and the standards for completeness are defined by the Department in the Ambulatory Surgical Treatment Center Procedural Manual.~~
- (4) ~~Each ASTC shall be responsible for the costs associated with processing of the data by the approved vendors.~~
- (5) ~~Each ASTC shall report the claims data at least quarterly to its approved vendor with a separate data set for each facility location.~~
- (6) ~~Each ASTC shall designate one staff member to be responsible for reporting the claims data and shall notify the Department and its approved vendor of the individual's name, title, work address, work telephone number, and e-mail address.~~

~~Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.~~

~~1200-7-4-.04 REQUIRED DATA ELEMENTS.~~

- (1) ~~The Tennessee Department of Health, Office of Health Statistics (TDH-HS) will oversee the development of the Ambulatory Surgical Treatment Center Data System (ASTC) Procedural Manual that will list the variables to be reported, their descriptions and reporting format, and other information associated with data submission. The Department of Health shall make future changes in the Procedural Manual when the Commissioner deems changes to be necessary. The Department will notify reporting entities of all revisions. These revisions become effective one hundred and eighty (180) days following the date of notification. At that time, failure to meet the amended requirements is subject to the penalties as prescribed by T.C.A. §68-1-119.~~
- (2) ~~The data set for each reported discharge, regardless of payer, will include, but is not limited to, the following data elements, as listed on form CMS-1500:~~
- ~~1. Type of Insurance~~
 - ~~1a. Insured's ID Number~~
 - ~~2. Patient's Name~~
 - ~~3. Patient's Date of Birth and Sex~~
 - ~~4. Insured's Name~~
 - ~~5. Patient's Address: No., Street~~
 - ~~5. Patient's Address: City, State~~
 - ~~5. Patient's Zip Code~~
 - ~~5. Patient's Telephone Number~~
 - ~~6. Patient Relationship to Insured~~
 - ~~7. Insured's Address: No., Street~~
 - ~~7. Insured's Address: City, State~~
 - ~~7. Insured's Zip Code~~
 - ~~7. Insured's Telephone Number~~
 - ~~8. Patient Status~~
 - ~~9. Other Insured's Name~~
 - ~~9a. Other Insured's Policy or Group Number~~
 - ~~9b. Other Insured's Date of Birth and Sex~~
 - ~~9c. Other Insured's Employer's/School Name~~
 - ~~9d. Insurance Plan/Program Name~~
 - ~~10a. Patient's Condition Related to Employment~~
 - ~~10b. Patient's Condition Related to Auto Accident~~
 - ~~10c. Patient's Condition Related to Other Accident~~
 - ~~11. Insured's Policy Group or FECA Number~~
 - ~~11a. Insured's Date of Birth and Sex~~
 - ~~11b. Insured's Employer's/School Name~~
 - ~~11c. Insurance Plan/Program Name~~
 - ~~11d. Another Health Benefit Plan~~
 - ~~14. Date of Current Illness/Injury/Pregnancy~~
 - ~~15. First Date of Same/Similar Illness~~
 - ~~16. Dates Patient Unable to Work~~
 - ~~17. Name of Referring Physician or Other Source~~
 - ~~17a. ID of Referring Physician~~
 - ~~18. Hospitalization Dates Related to Current Services~~
 - ~~20. Outside Lab & Charges~~
 - ~~21. Diagnoses or Nature of Illness or Injury~~
 - ~~22. Medicaid Resubmission: Code & Original Ref. No.~~
 - ~~23. Prior Authorization Number~~
 - ~~24A. Date(s) of Service~~
 - ~~24B. Place of Service~~
 - ~~24C. Type of Service~~

(Rule 1200-7-4-.04, continued)

- 24D. Procedures, Services, or Supplies
- 24E. Diagnosis Code
- 24F. Charges
- 24G. Days or Units
- 24H. EPSDT Family Plan
- 24I. EMG
- 24J. COB
- 25. Federal Tax ID Number & Type
- 26. Patient's Account No.
- 27. Accept Assignment
- 28. Total Charge
- 29. Amount Paid
- 30. Balance Due
- 32. Name and Address of Facility Where Services Were Rendered
- 33. Physician's, Supplier's Billing Name, Address, Zip Code, & Phone number
- 33. PIN number
- 33. GRP number

(3) If collected by the ASTC, the data set for each reported discharge will include the following data elements:

- 1. Patient's Social Security Number
- 2. Patient's Race/Ethnicity (optional)

Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.

~~1200-7-4-.05 SCHEDULE OF SUBMISSION.~~

- (1) All data submitted to the approved vendor by the ASTCs must be in a format and medium approved by the vendor.
- (2) Submission of required data by the ASTCs to their approved vendor shall adhere to the following quarterly schedule:

Quarter	Time Span	Submission Due Date
Q1	January 1 – March 31	May 30
Q2	April 1 – June 30	August 29
Q3	July 1 – September 30	November 29
Q4	October 1 – December 31	March 1

- (3) The approved vendor must receive all required data within 60 days following the close of the quarter.

Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.

~~1200-7-4-.06 PENALTY ASSESSMENT.~~

- (1) Beginning with records due on or before January 1, 2004, the Department of Health will assess a civil penalty of five cents (\$.05) per record per day for delinquent discharge reports. A claims data report is delinquent if the approved vendor does not receive it within sixty (60) days after the end of the quarter.

(Rule 1200-7-4-.06, continued)

- ~~(2) If the vendor receives the report in incomplete form, the Commissioner shall notify the ASTC and provide fifteen (15) additional days for the ASTC to correct the error, prior to the imposition of any civil penalty.~~
- ~~(3) For ASTCs not submitting any discharge reports by the submission deadline, the number of quarterly discharge reports delinquent, for a particular facility per quarter, will be estimated by dividing the number of total discharges or admissions reported in Schedule D Availability and Utilization of Services of the most current, final Joint Annual Report of Ambulatory Surgical Treatment Centers (JAR-ASTC) on file with the Department of Health for that facility by four (4).~~
- ~~(4) The Department will allow a 5% error rate on data submitted for discharges occurring before January 1, 2006. For discharges occurring on or after January 1, 2006, the acceptable error rate will be 2%. Records that fall within the acceptable error rate will not be subject to any penalties. Facilities that exceed the acceptable error rate will be penalized based on total errors (not on errors minus 5% or minus 2%).~~
- ~~(5) The Commissioner shall send notice of an approximate daily assessment of the civil penalty to the delinquent ASTC. The assessment will estimate the approximate penalty per day based on the estimated number of discharge reports. The assessment will state that penalties will begin to accrue on the due date and will accrue until the delinquent discharge reports are received or the maximum penalty is reached. The maximum civil penalty for a delinquent report is ten dollars (\$10) for each discharge record.~~
- ~~(6) Upon receipt of the penalty assessment, the ASTC has the right to an informal conference with the Commissioner. The Commissioner must receive a written request for an informal conference within thirty (30) days of the assessment, with a copy being sent to the Director of Health Statistics within the same time frame.~~
- ~~(7) After the informal conference with the Commissioner, or if no conference is requested, or the time frame for requesting a conference has expired, the Department may proceed to collect the penalty by setting the penalty off against funds owed to the ASTC or by billing the facility for the amount of the penalty. If the facility fails to submit the required amount to the Department within 60 days of the date of the bill, the Department may institute litigation.~~
- ~~(8) The Commissioner has the authority to delay any penalty for not correcting any particular data element and can grant a waiver from penalties if the failure is due to an act of God or other events of extraordinary circumstances clearly beyond the control of the ASTC. The facility must make a written request for the waiver and the informal conference within the first thirty (30) days following notification of the assessment. The proceedings before the Commissioner involving penalty waivers are not subject to the Uniform Administrative Procedures Act.~~

Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. *Administrative History:* Original rule filed January 27, 2005; effective April 12, 2005.

1200-7-4-.07 VENDOR REQUIREMENTS.

- ~~(1) An applicant desiring to be approved as a statewide data processing vendor shall make written application to the Department of Health, Office of Health Statistics. The Department will approve a maximum of three vendors.~~
- ~~(2) The format for reporting the required codes and the standards for completeness and quality are defined by the Department in the ASTC Procedural Manual. Each record must include the ID number approved by the Department for the reporting ASTC and all generated fields specified by the~~

(Rule 1200-7-4-.07, continued)

~~Department in the ASTC Procedural Manual. All records submitted to the Department must be in an electronic or magnetic medium approved by the Department.~~

- ~~(3) The applicant must demonstrate that it is capable of receiving, and compiling, from ASTCs throughout the State the patient data elements specified in 1200-7-4-.04 (2) of this rule.~~
- ~~(4) The applicant must demonstrate that it is capable of examining the patient data it receives for accuracy, informing the ASTC submitting the patient data of all potential errors in the data which are discovered as a result of the examination of accuracy, and correcting the patient data as directed by the ASTC and/or the Department.~~
- ~~(5) The applicant shall affirm that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable and current HIPAA requirements in the course of doing business with the State. The applicant shall affirm that it will cooperate with the State in the course of its performance so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. The applicant will sign any documents that are reasonably necessary to keep both parties in compliance with HIPAA, including, but not limited to, business associate agreements.~~
- ~~(6) If an approved vendor fails to carry out its requirements as specified in the rules of the Tennessee Department of Health, the Department may remove its certification as an approved vendor.~~

~~Authority: T.C.A. §§4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.~~

1200-7-4-.08 PROCESSING AND VERIFICATION.

- ~~(1) Discharge data reported in an incorrect format or with elements inconsistent with this rule will be considered in error and returned to the reporting entity.~~
- ~~(2) Discharge data considered in error is subject to the penalties as prescribed in T.C.A. §68-1-119, unless the errors are corrected within fifteen (15) days after the ASTC receives notification of existing errors.~~
- ~~(3) Each approved vendor shall report quarterly to the Department the reporting status of all facilities utilizing its services. An update to the original report to update the status of facilities that failed to report, that were delinquent in reporting, or that exceeded the acceptable error rate shall be provided to the Department on an as requested basis. Each vendor shall maintain and report to the Department any information the Department deems necessary for penalty assessment.~~
- ~~(4) Each approved vendor shall report all data received each quarter, including additions and corrections, to the Department no more than one hundred and twenty (120) days following the close of the quarter. If any facility's data is incomplete or incorrect at that time, the vendor shall contact the Department for a decision on whether the quarterly submission should be delayed to allow for the completion or correction of the data, or if that facility's data should be held for inclusion in the next quarterly submission.~~
- ~~(5) After all data have been computerized, edited, updated, and determined to be the final corrected set by the Department, each ASTC shall be given the opportunity to review the entire data set relating to their facility prior to the data being released to the public, if they so desire.~~

(Rule 1200-7-4-.08, continued)

- (6) ~~The Ambulatory Surgical Treatment Center shall notify Health Statistics in writing of any errors in the data set. Valid explanations of the errors and documentation including correct data must be provided with the notification. The ASTC shall provide corrected records for the data set.~~

~~Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.~~

~~1200-7-4-.09 DATA AVAILABILITY.~~

- (1) ~~Within thirty (30) days after all ASTC claims data has been verified and deemed final, the Department shall promptly make the data available to the Tennessee Hospital Association for review and copying.~~
- (2) ~~No data will be released to the public until the verification process is completed.~~
- (3) ~~The Commissioner has the authority to delay release of any particular data element(s) if it is determined that the quality or completeness of the information is not acceptable.~~
- (4) ~~The data file will be made available for release and purchase; however, the personal identifiers on the patient records will be removed to protect the confidentiality of the patients.~~
- (5) ~~The fee for preparation and release of the annual data file, or any subset of the annual file, will be \$220 per copy. No fee will be charged to an ASTC for its own finalized data.~~

~~Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.~~

~~1200-7-4-.10 CONFIDENTIAL INFORMATION.~~

- (1) ~~All information reported to the Commissioner under this part is confidential until processed and verified by the Department.~~
- (2) ~~In no event may personal identifiers be released to anyone except qualified vendors nor shall information be made available to anyone by either the Department, vendors or the THA that reasonably could be expected to reveal the identity of a patient including those items contained in 45 C.F.R. § 514 (a) and (b).~~
- (3) ~~Information regarding the name of an employer will not be released to the public. Information about any employer may be released to the employer identified in the data record. ASTCs may receive information regarding the name of employer for their claims only.~~
- (4) ~~Neither the Department of Health nor THA shall release information to the public in violation of any other statutory provisions for confidentiality of health related matters or the providers of health services.~~
- (5) ~~The Department may use or authorize use of the compiled data, including the personal identifiers, for purposes that are necessary to provide for or protect the health of the population and as permitted by law.~~

~~Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-1-119. Administrative History: Original rule filed January 27, 2005; effective April 12, 2005.~~

(Rule 1200-7-4-.08, continued)

Chapter 1200-07-04

Ambulatory Surgical Treatment Center Data System and Outpatient Diagnostic Center Data System

1200-07-04-.01 Definitions

1200-07-04-.02 Purpose

1200-07-04-.03 Reporting Requirements

1200-07-04-.04 Required Data Elements

1200-07-04-.05 Submission Schedule

1200-07-04-.06 Vendor Requirements

1200-07-04-.07 Processing and Verification

1200-07-04-.08 Penalty Assessment

1200-07-04-.09 Data Availability

1200-07-04-.10 Confidential Information

1200-07-04-.01 Definitions

- (1) "Ambulatory Surgical Treatment Center" shall have the same definition as contained in T.C.A. § 68-11-201.
- (2) "ASTC" is the acronym for ambulatory surgical treatment center.
- (3) "Claim" shall mean a charge or bill for services rendered, billed to the patient, to another private individual, or to a third party payer, public or private.
- (4) "Claims Data" shall mean all data elements collected for all patients for whom an ASTC or ODC provides services that are entered on any claim form prepared by the ASTC or ODC and shall always include those required data elements identified in the subparagraphs listed in rule 1200-07-04-.04, paragraphs (1) and (2).
- (5) "CMS-1500" shall mean the claim form "Centers for Medicare & Medicaid Services 1500" or its successor form.
- (6) "Commissioner" shall mean the commissioner of the Tennessee Department of Health.
- (7) "Data Element" shall mean any individual piece of information collected from a patient by an ASTC or ODC during the process of providing services to that patient for which the ASTC or ODC will file a claim.
- (8) "Department" shall mean the Tennessee Department of Health.
- (9) "Error" shall mean data that are incomplete or inconsistent with the specifications in the ASTC Data System Procedural Manual, the ODC Data System Procedural Manual, or these rules.
- (10) "Final Joint Annual Report" shall mean the most recent Joint Annual Report filed by an ASTC or ODC where the data contained in the report have been edited, queried, and updated when appropriate, by the Department.
- (11) "JAR" is the acronym for Joint Annual Report.
- (12) "ODC" is the acronym for outpatient diagnostic center.

(Rule 1200-7-4-.08, continued)

- (13) "Outpatient Diagnostic Center" shall have the same definition as contained in T.C.A. §68-11-201.
- (14) "Personal Identifiers" shall be defined to include all the identifiers contained in 45 C.F.R. § 164.514 (b) or (e).
- (15) "Processed Data" shall mean data that have been analyzed by the Department or the Department's designated data vendor(s) and errors, inconsistencies, and/or incomplete elements in the data set, if any, have been identified.
- (16) "Public" shall mean anyone other than the Tennessee Department of Health, its vendors, and its contracted agencies.
- (17) "Record Level Data" shall mean a set of data that is specific to individual patient claims.
- (18) "State" shall mean the government of the State of Tennessee including all its agencies.
- (19) "UB-04" shall mean the CMS Form 1450, [a.k.a. "the Uniform Hospital Billing Form"], or its successor forms as established by the National Uniform Billing Committee and the State Uniform Billing Implementation Committee.
- (20) "Vendor" shall mean a third party entity, approved by the Department, through whom an ASTC or ODC submits its claims data for the purpose of compilation and editing according to these rules and the instructions of the Department.
- (21) "Verified Data" shall mean data that have been processed by the Department after the ASTCs or ODCs have had the opportunity to suggest corrections and/or deletions, and all appropriate revisions have been made to the data and approved by the Department.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.02 Purpose

- (1) The reporting of ambulatory surgical and outpatient diagnostic data will provide two statewide databases and permit assessment of variations in utilization, practice parameters, access to care, and charges.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.03 Reporting Requirements

- (1) Each ASTC and ODC shall contract with one of the approved vendors and shall report through its vendor all its claims data. Claims data for all free or charity services provided by any ASTC or ODC that otherwise submits claims for reimbursement shall also be reported to the vendor.
- (2) No claim reporting is required for any of the following:
 - (a) From a licensed ASTC or ODC that provides only free care and never bills for any services.

(Rule 1200-7-4-.08, continued)

- (b) Regarding any procedures already reported by an ASTC or ODC to the Department under T.C.A. § 68-3-505 or services ancillary thereto such as counseling, testing, or follow-up.
- (3) The Department will prepare the ASTC and ODC Data System-Procedural Manuals that will list the variables to be reported, their descriptions and reporting format, and other information associated with data submission. The Department shall issue revisions to the Procedural Manuals when the Commissioner deems it necessary. The Department will notify each ASTC, ODC, and vendor of all revisions. These revisions become effective one hundred and eighty (180) days following the date of notification. At that time, failure to meet the amended requirements is subject to the penalties as prescribed by T.C.A. §68-1-119.
- (4) Each ASTC or ODC shall report all data elements using the actual values used for billing by the ASTC or the ODC. No data elements shall be encrypted or otherwise altered. This rule shall not be interpreted to prevent encryption of entire files for security in transmission to parties having the appropriate decryption software.
- (5) Each ASTC and ODC shall be responsible for submitting its data to the approved vendor in a format and medium approved by the State.
- (6) Each ASTC and ODC shall be responsible for the costs associated with the processing of the data by the approved vendors.
- (7) Each ASTC and ODC shall report in a format using the data elements which correspond with the claim form used by the ASTC or ODC for billing. If an ASTC or ODC submits claims using both the CMS-1500 and UB-04 forms, the claims data shall be submitted in separate data sets for each form.
- (8) Each ASTC and ODC shall report the claims data at least quarterly, pursuant to rule 1200-07-04-.05, to its approved vendor with a separate data set for each facility location.
- (9) Each ASTC and ODC shall designate one staff member to be responsible for reporting the claims data and shall notify the Department and its approved vendor of the name, title, work address, work telephone number, and e-mail address of the designated staff member.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.04 Required Data Elements

- (1) CMS-1500 Claims Forms

 - (a) Each ASTC and ODC must report to the Department all the following data elements for each and every claim based on the CMS-1500 form:

 - 1. Patient's Birth Date
 - 2. Patient's Sex
 - 3. Patient's Address (State)
 - 4. Patient's Address (Zip Code)

(Rule 1200-7-4-.08, continued)

- _____ 5. Dates of Service (Through Date)
- _____ 6. Diagnosis or Nature of Illness or Injury
- _____ 7. Total Charge
- _____ 8. Patient's Social Security Number
- _____ 9. Patient's Race/Ethnicity

(b) Each ASTC and ODC must report to the Department all CMS-1500 data elements listed in the relevant ASTC or ODC Procedural Manual whenever the data element is collected by the ASTC or ODC and/or used for billing.

_____ (2) UB-04 Claims Forms

(a) Each ASTC and ODC must report to the Department all the following data elements for each and every claim based on the UB-04 form:

- _____ 1. Statement Covers Period
- _____ 2. Patient's Address (State)
- _____ 3. Patient's Address (Zip Code)
- _____ 4. Patient's Date of Birth
- _____ 5. Patient's Sex
- _____ 6. Revenue Codes
- _____ 7. Total Charges (By Revenue Code Category)
- _____ 8. Principal Diagnosis Code
- _____ 9. Patient's Social Security Number
- _____ 10. Patient's Race/Ethnicity

(b) Each ASTC and ODC must report to the Department all UB-04 data elements listed in the relevant ASTC or ODC Procedural Manual whenever the data element is collected by the ASTC or ODC and/or used for billing.

(3) Each ASTC and ODC shall report to the Department all data elements that it collected from patients and which it reported by making an entry in any or all of the data element spaces contained on any form other than the CMS-1500 or UB-04 on which it submits a claim. However, the data elements identified in paragraphs (1)(a) and (2)(a) above that must be collected, entered and reported to the Department by the ASTC or ODC for the identified claim form shall also be reported to the Department when any other claim form is used.

(4) Data elements collected by the ASTC or ODC that are not specifically identified in either paragraphs (1) through (3) of this rule or in the procedural manual shall not be reported to the vendor or the Department.

(Rule 1200-7-4-.08, continued)

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.05 Submission Schedule

- (1) Each ASTC or ODC shall submit all required claims to its approved vendor according to the following quarterly schedule:

<u>Quarter</u>	<u>Time Span</u>	<u>Submission Due Date</u>
Q1	January 1 – March 31	May 30
Q2	April 1 – June 30	August 29
Q3	July 1 – September 30	November 29
Q4	October 1 – December 31	March 1

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.06 Vendor Requirements

- (1) An applicant desiring to be approved as a statewide data processing vendor shall make written application to the Department. To be selected as a statewide vendor by the Department the applicant must demonstrate the ability to do all of the following:
- (a) Process the claims data as specified by the Department using the codes and the standards for completeness and quality specified by the Department.
 - (b) Include in each claims data record the ID number approved by the Department for the reporting ASTC or ODC and all vendor-generated fields specified by the Department.
 - (c) Examine the claims data it receives for accuracy, inform the ASTC or ODC submitting the data of all potential errors in the data which are discovered as a result of the examination of accuracy, and correct the data as directed by the ASTC, the ODC, and/or the Department.
 - (d) Submit the claims data to the Department in an electronic or magnetic medium or process approved by the Department.
 - (e) Report to the Department each ASTC or ODC that has either failed to submit claims data or is tardy in doing so.
 - (f) Affirm that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable and current HIPAA requirements in the course of doing business with the State. The applicant shall affirm that it will cooperate with the State in the course of its performance so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. The applicant will sign any documents that are reasonably necessary to keep both parties in compliance with HIPAA, including, but not limited to, business associate agreements.

(Rule 1200-7-4-.08, continued)

- (2) If any approved vendor fails to carry out its requirements as specified in the rules of the Tennessee Department of Health, the Department may remove its approval as a statewide data processing vendor.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.07 Processing and Verification

- (1) Each vendor must review all claims data submitted for completeness and accuracy. If errors, inconsistencies or incomplete elements are identified by the vendor, the vendor must report the errors to the ASTC or ODC in writing.
- (2) Upon receiving written notification of errors, the ASTC or ODC shall investigate the problem and shall supply correct information to the vendor within fifteen (15) days from notification.
- (3) Each approved vendor must report quarterly to the Department the reporting status of all ASTCs or ODCs utilizing its services. The status of facilities that failed to report, that were delinquent in reporting, or that exceeded the acceptable error rate shall be provided to the Department quarterly and then updated at the initiative of the vendor or upon request of the Department. Each vendor shall maintain and report to the Department any information the Department deems necessary for penalty assessment.
- (4) Each approved vendor must report all data received each quarter, including additions and corrections, to the Department no more than sixty (60) days following the submission due date specified in rule 1200-07-04-.05.
- (5) Each ASTC and ODC shall be given a ten (10) day period to review the quarterly data set relating to their facility after the quarterly data have been computerized, edited, updated, and determined to be the final corrected set by the Department. Upon the expiration of the ten (10) day period, absent receipt of corrections and/or revisions from an ASTC or ODC, the quarterly data is considered verified. If corrections and/or revisions are received by the Department within the ten day period, the quarterly data is considered verified only after the Department has made any corrections and/or revisions it considers appropriate.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.08 Penalty Assessment

- (1) The Department will assess the civil penalties authorized by T.C.A. § 68-1-119(b) each day claims data are reported later than the submission due date identified in rule 1200-07-04-.05 or not reported at all up to the statutory maximum for each claim record.
- (2) Any ASTC or ODC not submitting any claims data by the submission deadline will have the number of quarterly unreported claims records calculated, for purposes of civil penalty assessment, by dividing by four (4), the number of total discharges or admissions reported on Schedule D (Availability and Utilization of Services) of the most current final JAR of the ASTC or ODC on file with the Department for that facility.
- (3) An ASTC or ODC not submitting any claims data by the submission deadline will begin accruing penalties the day immediately following the submission deadline and ending the day when the actual claims data are received by the vendor or the maximum penalty is

(Rule 1200-7-4-.08, continued)

reached.

- (4) The Department will report the rate of error it identifies to the ASTC or ODC in writing. The acceptable error rate will be two percent (2%). Records that fall within the acceptable error rate will not be subject to penalties. ASTCs or ODCs that exceed the acceptable error rate will be penalized based on total errors.
- (5) An ASTC or ODC that does not timely submit corrected claims records will accrue delinquent penalties starting the sixteenth (16th) day after error notification and ending the day when the actual corrected claims data are received by the Department or the maximum penalty is reached.
- (6) Upon receipt of the notice of civil penalty assessment the ASTC or ODC has the right to an informal conference with the Commissioner or a formal hearing to contest the assessment.
 - (a) Informal conferences are governed by T.C.A. § 68-1-119(b) and (c).
 - (b) A request for a formal hearing must be made in writing and received by the Department within thirty (30) days of the receipt of the notice of assessment or, if an informal conference pursuant to subparagraph (a) was requested, within thirty (30) days of the receipt of the written disposition of the informal conference. Proceedings involving formal contests of civil penalties are subject to the contested case provisions of the Uniform Administrative Procedures Act.
 - (c) Civil penalties for any ASTC or ODC that continues to violate the law during the pendency of the informal conference will continue to accrue until either the violation ends or the maximum civil penalty is reached.
 - (d) Waiver of penalties is governed by T.C.A. § 68-1-119(c). However, the ASTC or ODC must make a request for the waiver in its request for an informal conference pursuant to subparagraph (a) or in its request for a formal hearing pursuant to subparagraph (b).
- (7) Unless a request for a formal hearing pursuant to subparagraph (6)(b) is timely received, the civil penalties become final and collectable either on the date that the time for requesting an informal conference has expired without a request being filed, or on the date on which the written final disposition of the informal conference is received.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.09 Data Availability

- (1) If the Commissioner determines that the quality or completeness of the information is not acceptable, he or she has the authority to delay release of any particular data element(s).
- (2) The Department may create reports for public release using any available processed and verified data. It may also provide custom reports, as requested by the public, using any available processed and verified data. Facility specific data reports will not be released to the public based on less than four (4) consecutive quarters of data.
- (3) The State, its agents and the vendors may receive reports of any record necessary, together with any needed patient identifiers, to carry out their contractual duties. This includes any organization contracted with to provide editing, quality control, database management services, or research for the State, or to provide keying of paper claims

(Rule 1200-7-4-.08, continued)

forms for the vendors. Any such contractual agent must agree in writing to establish and maintain appropriate controls to protect the confidentiality of the data and must agree to return or destroy any data or records at the termination of the contract.

- (4) The Department will make record level data files available for public release and purchase under the following conditions. The fee for a quarter of data for each data system will be two hundred fifty dollars (\$250.00). The fee for a subset of a quarter of data for each data system will be two hundred fifty dollars (\$250.00). The Department maintains a proprietary interest in all record level data it sells or distributes and such data are made available solely for use by the purchaser and may not be given or sold to another entity.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.

1200-07-04-.10 Confidential Information

- (1) All information reported to the Commissioner under this part is confidential until processed and verified by the Department.
- (2) The Commissioner may use or authorize use of this data, including the personal identifiers, for purposes that are necessary to provide for or protect the health of the population and as permitted by law. In no event may personal identifiers be released to the public.
- (3) Information regarding the name of an employer will not be released to the public. Information about any employer may be released to the employer identified in the data record. A facility may receive information regarding the name of an employer for its claims only.
- (4) The data may be released pursuant to the provisions of 45 C.F. R. § 164.514 (b) or (e). However, any data released to the public, in addition to those items required by law to be deleted, will also not contain any of the following:
- (a) Any patient's address city;
 - (b) An insured's address city;
 - (c) The month and day of all dates;
 - (d) Any numbers after the first three numbers of all zip codes for areas having a population under 20,000;
 - (e) Any numbers after the first five numbers of all zip codes for areas having a population 20,000 or more;
 - (f) The year of birth and the actual age of any person over eighty nine (89) years of age; and
 - (g) Information that reasonably could be expected to reveal the identity of a patient, including those items contained in 45 C.F.R. § 164.514 (a) and (b)(2)(i).
- (5) Any agency of the State of Tennessee seeking confidential ASTC or ODC claims data or reports containing such confidential information, must agree in writing to follow all confidentiality restrictions of the Department concerning use of this data. The agency must also agree in writing to release no record level information to any other entity, and

(Rule 1200-7-4-.08, continued)

shall forward all such requests for record level information to the Department.

Authority: T.C.A. §§ 68-1-103 and 68-1-119.